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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,027	06/29/2000	Wayne A. Hendrickson	50950/JPW/EMW	1817

7590 03/04/2004
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EXAMINER

ZHOU, SHUBO

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/609,027

Applicant(s)

HENDRICKSON ET AL.

Examiner

Shubo "Joe" Zhou

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 21, 22, 26, 27, 48, 50 and 51.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: The amendments to claim 48 to recite "3-D structure of the SCF fragment", and "interaction energy of the stem cell factor receptor-binding site on the fragment of SCF" will require new consideration and/or search.

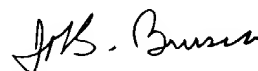
Further, the list of all claims does not commence on a separate sheet, and the identifier "previously canceled" is not the identifiers require to be used in the revised 37 CFR 1.121.

Continuation of 5c). NOTE:

The rejection of claims 21-22, 26-27, 48, and 50-51 under 35 USC 112, first paragraph, (new matter rejection) remains because the amendments to the claims are not entered.

In regard to the rejection of claim 48 under 35 USC 103(a), applicants' argument is on the ground that the reference does not teach all the limitations such as a fragment of SCF etc., and thus the rejection is improper. This is not found persuasive because what the claim requires is 3-D structure of the fragment obtained by computing atomic coordinates, etc., which, as set forth in the previous Office actions is considered as manipulation of data and non-functional descriptive material. Applicants further argue that the claimed steps are not all computational steps such as step b). This is not deem persuasive either because the step b) requires determining kit receptor binding site on the fragment based on the 3-D structure, which was obtained through computing method in step a). Thus, determining a binding site based on 3-D structure defined by coordinates does not require non-computing method. Rejection remains.

A


JOHN S. BRUSCA, PH.D.
PRIMARY EXAMINER